



REASON & REVELATION

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What You Can Never Know Based on a Fossil

Kyle Butt, M.A.

JERRY Coyne's book, *Why Evolution Is True*, purports to be a compendium of a vast amount of evidence that proves evolution to be a "fact." The book does not accomplish its purpose, but it does offer some clear insight into the flaws that riddle the theory of Darwinian evolution and the thinking of those who support it. One of the easiest errors to spot is the way that evolutionists "date" animals in the fossil record.

Although the millions-of-years time frame is inherently flawed (see DeYoung, 2005), I will use it in this article just as the evolutionists use it. I will do so to show that, even using their own thinking, their conclusions are illogical. First, evolutionists remind us of the fact that the record of the rocks and the fossils it contains are a mere scintilla of the animals that actually lived on the planet. Since the chances of a particular organism actually fossilizing are so low, Coyne concluded: "[W]e can estimate that we have fossil evidence of only 0.1 percent to 1 percent of all species—hardly a good sample of the history of life!" (2009, p. 22). Evolutionists often insert this kind of statement into their writings to explain away the billions of "transitional" fossils that should fill the record if Darwinian evolution were true. Yet, in spite of this admission, evolutionists such as Coyne treat the fossil record as a perfect representation

of life when it is in their "best interests." Then they proceed to use it to tell us when certain organisms arose or disappeared from our planet.

For instance, Coyne stated: "Until about 390 million years ago, the only vertebrates were fish. But, 30 million years later, we find creatures that are clearly *tetrapods*: four-footed vertebrates that walked on land" (p. 36). Coyne is alleging, based on when certain fossils "appear" in the record, that no *tetrapods* existed "390 million years ago." The fossil record, however, could only be used to date the "appearance" of an organism if it were perfectly complete. Could it be that *tetrapods* lived much earlier but did not fossilize? Certainly. In fact, we discover on a regular basis that when a fossil "appears" or "disappears" in the fossil record tells us absolutely **nothing** about when it actually lived.

Take the coelacanth fish as an example. Supposedly, this lobe-finned fish "disappeared" from the Earth about 70 million years ago. This thinking was based on the idea that the fish did not appear in the fossil record that "dated" from 70 million years ago to the present. In 1938, however, fishermen found a living coelacanth (Lyons, 2007). Coyne stated: "Groups like whales and humans have evolved rapidly, while others, like the **coelacanth 'living fossils,' look almost identical to ancestors that lived hundreds of**

millions of years ago" (2009, p. 4, emp. added). So, we have a fish that lived "70 million" years ago, is still alive today, and left no trace in the fossil record for "70 million" years. Thinking critically about this, could it also be that these fish lived "70 million" years **before** they appear in the fossil record? Absolutely.

In his discussion of lobe-finned fish and land living vertebrates, Coyne wrote: "If there were lobe-finned fishes but no terrestrial vertebrates 390 million years ago, and clearly terrestrial vertebrates 360 million years ago, where would you expect to find transitional forms? Somewhere in between" (p. 37). But wait, why does Coyne suggest there were no terrestrial vertebrates 390 million years ago? Because we have not found any in the fossil record. But that means nothing due to the limitations of the fossil record, which Coyne and host are quick to point out when they are explaining the lack of transitional fossils. Could it be that terrestrial vertebrates lived "70 million years" before we find them in the fossil record? Definitely. **"When we see an organism in the fossil records gives us zero understanding of when it actually appeared or disappeared from the Earth."**

Again, Coyne suggests: "Humans are newcomers to the scene—our lineage branches off from that of other primates only about 7 million years ago, the merest sliver of evolutionary time" (p. 28). Yet in order to remain consistent, Coyne and others can tell us nothing about our lineage "branching off" based on the lack of human fossils in certain layers. In fact, from their admission about the incomplete fossil record, could we surmise that humans might have lived "millions of years" before we find them preserved in the record? Yes, indeed.

This flaw in evolutionary thinking manifests itself remarkably well in Coyne's assessment of the Laotoli

footprints. In 1976, Andrew Hill found an 80-foot trail of footprints that were “virtually identical to those made by modern humans walking on soft ground” (Coyne, 2009, p. 202). Even though these footprints match those of modern humans, they were attributed to *Australopithecus afarensis*. Coyne explained: “the trail dates from around 3.6 million years ago, a time when *A. afarensis* was the only hominin **on record**” (p. 202, emp. added). If the fossil record is so sketchy that lobe-finned fish can squeak by unnoticed for 70 million years, could it be that “modern humans” were around three or four “million” years earlier than their initial appearance in the fossil record? Yes. So, which makes more sense: (1) that modern humans lived “before” their first appearance in the fossil record, or (2) that a chimp-like creature such as *A. afarensis* made an 80-foot trail of footprints that is “virtually identical to those made by modern humans walking on soft ground”? Since we know that a creature’s appearance in the fossil record can tell us **nothing** about the time a creature appeared on Earth, the reasonable conclusion is that “modern” humans were around before evolutionists assert they were—and therefore are not relatives of the *Australopithecines*.

In February 2006, the media was awash with news about *Castorocauda lutrasimilis*, a beaver-like animal that supposedly lived 164 million years ago. The creature was so interesting because it was over 100 million years out of place. According to the evolutionary thinkers, such creatures did not exist until 64 million years ago based on their absence from the fossil record (Butt, 2006). Coyne stated: “Sixty million years ago there were plenty of fossil mammals, but no fossil whales. Creatures that resemble modern whales show up 30 million years later” (2009, p. 49). Of course, all this statement can mean is that whales don’t “show

up” in the fossil record until 30 million years later. But that means absolutely nothing about when they lived. They could have been on the Earth “70 million years” **before** they show up in the fossil record (using their flawed millions-of-years scheme). For Coyne to state that he knows when they arose on Earth based on when they are found in the fossil record is nothing short of deception, based on his own acknowledgement that the fossil record is incomplete.

We see, then, that evolutionists cannot tell us one thing about when a creature arose on Earth—based on its fossils. Neither can evolutionists tell us one thing about when a creature went extinct—based on fossils. A fossil can never tell you a beginning “date” or extinction “date.” And yet the most educated and applauded evolutionists in the world, such as Jerry Coyne, persist in falsifying their information by stating that they **know** when a certain creature arose or disappeared—based on the fossil record. For Coyne to assert: “all the evidence—both old and new—leads ineluctably to the conclusion that evolution is a fact,” but then use such irrational “evidence” as proof of evolution, shows a glaring

misconception in his idea of what a “fact” is.

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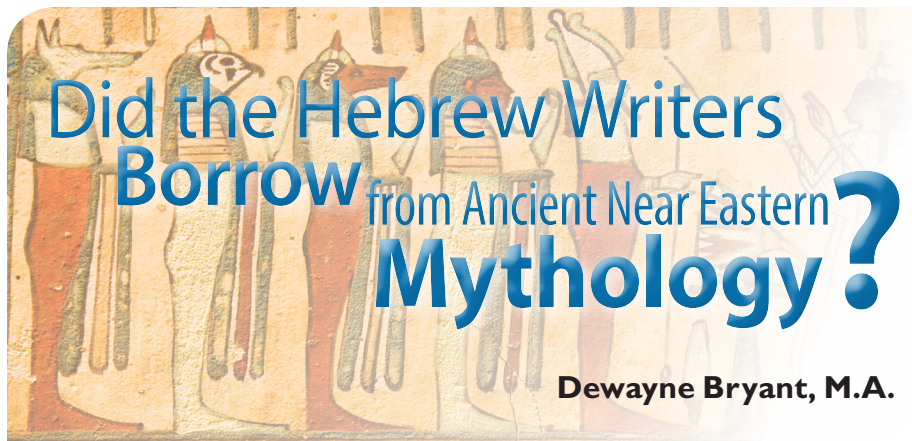
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FOR centuries, the bulk of the people in the West regarded the Bible as the Word of God. They saw it as the inerrant and inspired revelation of God to His creation. Beginning in the mid-1800s, some academicians began rejecting the inspiration of the Bible. This came, in part, after the discovery of ancient mythological texts. Upon examining the textual evidence, skeptics highlighted the Bible's similarities with other literature and claimed it to be only one sacred book among a larger body of myth. After studying the Bible's differences from ancient mythology, other scholars viewed these discoveries as confirmations of the Bible's uniqueness.

Perhaps the most dominant viewpoint in biblical studies concerning the biblical text is that the Bible contains significant amounts of mythology borrowed from Israel's neighbors (although we should quickly add that truth is not determined by majority opinion). This presumption has dominated biblical studies for nearly two centuries. But as additional texts have surfaced, more cautious scholars have backed away from this viewpoint. Indeed, myth was once seen as pure fiction, but now scholars are beginning to realize that this may not necessarily be the case. The belief that myth may contain small nuggets of historical truth is gaining popularity, even if we recognize that tales of the gods were nothing more than the work of inventive scribes. So where does this leave the Bible? The question we must ask is this: is the Bible pure myth, or is it something else?

We must first determine what we mean by "myth." It is a notoriously difficult term to define, and scholars use it with a variety of nuances (see Kreeft and Tacelli, 1994, pp. 212-213). Some define it as any

story including the supernatural. Most separate myth from legend, with the former being stories about the gods, and the latter being stories—with varying degrees of historical truth—about human beings. In modern parlance, some use it to refer to fiction, especially the body of stories about a particular character (e.g., the mythology of Superman or Captain America). But if we look at the term as it bears on the sacred texts of the religions in the ancient Near East, it has a clearly defined usage.

In his book *The Bible Among the Myths*, Old Testament scholar John Oswalt notes the radical differences between mythological texts and the Hebrew Bible (2009). The Bible and ancient myth came from two fundamentally different worldviews. Although he identifies nearly a dozen different points, we will examine four in particular.

THE MORAL CHARACTER OF DEITY

In the Bible, God's moral character is identified with holiness and righteousness. To be more accurate, it is His character that defines holiness. His attributes set the standards for behavior. They are ethically and morally pure and upright. Furthermore, since He is perfect and cannot fundamentally change (Malachi 3:6), He can become neither any better nor any worse. His goodness is celebrated throughout the Bible (Psalm 16:2; 31:19; 107:1). He cannot be tempted or tempt another (James 1:17), or look upon evil with any measure of approval (Habakkuk 1:13). Individuals mirror God's holiness, in part through ethical living (Leviticus 11:44; 1 Peter 1:16).

The gods of the ancient Near East often commit evil acts and frequently give themselves over to debauchery. In Egypt-

tian myth, the chaotic god Seth murders his brother Osiris and dismembers the body. In an Egyptian myth titled "The Contendings of Horus and Seth," Seth attempts to rape his nephew Horus during a contest over who will take Osiris' place (Lichtheim, 2006, 2:219). Rape is a common theme in the Greek myths, where women and even goddesses are violated with a frequency that would shock many modern readers. In the *Atrahasis Epic*, the gods are outraged because humanity is keeping them awake at night. They attempt to silence humanity through various means, including disease and famine, and finally send a flood to destroy humanity for the sake of a good night's sleep (see Foster, 1997). The gods are not above getting drunk, either. In one Ugaritic text, called "The Myth of El's Banquet," the Canaanite god El (or Ilu) becomes inebriated, and on his way home meets an unidentified animal which causes him to soil himself and fall down into his own excrement (see Pardee, 1997). Such inglorious stories are nowhere to be found in the Bible about God. The God of the Bible can in no way be compared to deities of human invention.

THE VIEW OF MANKIND

THE biblical account of mankind's creation is the most complete and noble of any in ancient Near Eastern literature. Other accounts of man's creation must be pieced together from various fragments (as in Egypt), or else depict man as little more than an afterthought (as in Mesopotamia). Regardless of the specific tradition, the requirements are clear: man is created to serve the gods, to perform services for them, and, should they fail, incur divine wrath. As Walton observes:

while Israelites viewed man as created to rule, Mesopotamians viewed him as created to serve.... The fact that the Israelites viewed man as the centerpiece of creation afforded him a certain dignity, undergirded by the fact that he was created in the image of God. In contrast, Mesopotamians did not see man as created with dignity. Human beings achieved their dignity by the function they served (1989, p. 29).

He adds that humanity was originally created "in a barbarous state," with humanity

being “an unplanned afterthought, created for the sake of convenience” (p. 30).

The biblical account of Creation is vastly different from its Near Eastern counterparts. Man is the apex of creation. He has dignity because of who he is, not what he does. He is created as a kind of governor or viceroy charged with stewarding God’s creation (Genesis 1:28). Furthermore, this creation was prepared with man in mind (cf. Genesis 1:29-30), for his use and enjoyment. Although he is also created to worship his Creator, it is not a wearisome task. The New Testament further reveals that worship is also meant for the benefit of fellow believers (Acts 2:46-47; Ephesians 5:19), in addition to giving honor to God.

THE REQUIREMENTS OF DEITY

WHAT the gods required of humanity in other cultures could not be known with any accuracy. The most a person could do was to infer the will of the gods based on their circumstances. If all was well and life was going smoothly, then it was apparent that the person was indeed doing the gods’ will. Should they suffer misfortune or tragedy, it must have meant that the person had offended the gods. It became their task to determine which god they might have offended through omens and offer the appropriate sacrifices. This was no easy task, and could be viewed as something of a guessing game. In contrast, God clearly outlined what He expected of mankind with precision through His spokesmen. His will is revealed clearly as a matter of public record, made known through readings to the people (Deuteronomy 31:9-13). The people were warned before punishment, rebuked afterwards, and told specifically what needed to be done to please God.

HISTORIOGRAPHY

THE biblical authors had a worldview by which history was viewed as linear. The past, present, and future all had great importance. Specifically, the past served as a reminder, which God makes clear is important enough to signify with memorials, such as piles of stones (e.g., Joshua 4:19-24), or the institution of the Lord’s Supper (Matthew 26:17-30; Mark 14:12-26; Luke 22:7-39). The future is also important in the biblical worldview, as we see in the prophet Joel’s concern about

the coming Day of the Lord (Joel 2:1-11), or Christ’s teaching about His impending return (Matthew 24:30; 1 Thessalonians 4:16-17). The biblical writers considered all phases of time to be important.

There was virtually no understanding of history in the modern sense among the cultures of the ancient Near East. The Near Eastern view of history was cyclical and assigned little importance to the past or to the future. The ancient Greek historian Herodotus (circa 484-425 B.C.) is called the “father of history” for good reason—prior to his time there was little or no recording or analysis of the past for its own sake. Historiography, as we know it, did not exist (an exception may be seen in the Babylonian chronicles, which record the history of Babylon from the eighth century through the third century B.C.). The past had very little importance outside its use as propaganda by monarchs interested in glorifying themselves (see Oswalt, 2009, pp. 111-137).

CONCLUSION

MYTHOLOGY is much more than exciting stories filled with fantastic monsters, magic, and imaginative details. It is a way of thinking—a worldview. Careful comparison of the biblical text with myth makes it clear that the Bible and ancient Near Eastern mythology are not merely different from one another—they are **radically** so. Even a cursory reading is enough to give most people a feeling that the Bible and myth are quite different, even if they immediately may not be able to put their finger on why. Thanks to the discovery and study

of ancient texts, the differences are easy to detect. The Bible, unlike Near Eastern mythology, has an air of dispassionate objectivity that puts it in a category by itself. The Bible and ancient mythology are so different from one another that any allegations of wholesale borrowing on the part of the biblical authors must be rejected by those who handle the ancient evidence with care.

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ofsecration of a just and necessary war, which has been pleased to give us a means
and liberties: Particularly in that he has been pleased to give us a means
the support of our troops, and to crown

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ember next, for SOLEMN THANKSGIVING and PRAISE: That at one time and on
may express the gratitude of their hearts, and pray that they may join the penitent
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whereby they had been pleased to give us a means of our redemption, and the
the merits of Jesus Christ, mercifully to receive a pardon for our sins, and the
ly to afford his blessing on the Governments of these States respectively, and the
To inspire our commanders both by land and sea, and the brave and gallant
nder them fit instruments, under the providence of God, to preserve to us our
all human blessings, INDEPENDENCE and PEACE. That it may please him, to
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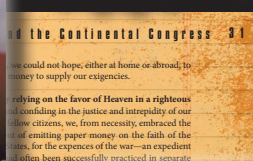
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They are endowed by their Creator



America's *REAL* Problem

Dave Miller, Ph.D.

THE list is lengthy. America's life-threatening maladies have multiplied in the last 50 years to the point that it is widely acknowledged that the nation stands on the brink of catastrophe. No doubt about it, the issues in question are serious:

I. The Economy

Massive government spending has created historically unprecedented national debt, while politicians continue to raise the debt ceiling. A host of ailments radiate forth from this oppressive situation, including stifling taxes, federal bailouts of corporations, entitlement programs from health care to cell phones, a depleted social security trust fund, billions in earmarks and pet projects at taxpayer expense.

II. Illegal Immigration and Border Security

The situation places a heavy financial burden on the American taxpayer. Those who enter illegally are lawbreakers—hardly to be expected to be law-abiding citizens. What's more, the uncontrolled influx of unassimilated illegals threatens to alter the economic, social, and ideological complexion of the country.

III. Terrorism

Americans have been made to realize that national security is not certain. When terrorists can come to American soil, commandeer airplanes and murder some 3,000 citizens, we realize we are extremely vulnerable to those who hate us. The ongoing measures being taken to protect the homeland notwithstanding, Americans remain open targets.

IV. Energy Crisis and Oil Dependency

Gas prices continue to soar, politicians haggle about the environment, and America remains unbelievably energy dependent on foreign nations and hostile sources.

V. Unprecedented Crime Rates

The average citizen of today, unlike the average citizen 60 years ago, lives daily with necessary security measures—from locking doors to setting alarms. Drive by shootings, burglaries, shoplifting, muggings, rape, and a host of other criminal infringements on peaceful existence are rampant and seemingly uncontrollable. Prisons are full to overflowing with continual efforts to provide more prisons and more law enforcement personnel.

Yes, all these issues are critically serious. **But according to the Founders of the American Republic, they are only symptoms.** And they are fully to be expected when a sizable percentage of the nation's population has lost sight of the single, quintessential, most pressing concern. This concern was stated emphatically over and over again by the Founders at the very beginning of the nation throughout the tumultuous years of the Revolutionary War. Issuing 15 supplication proclamations to the nation, the Founders reiterated their belief that their hope of **establishing and perpetuating the Republic depended on citizen attachment to the God of the Bible, the Christ of the New Testament, and the Christian principles taught in the Scriptures.** Here is one example of this forthright affirmation, issued by the Continental Congress in November of 1777:

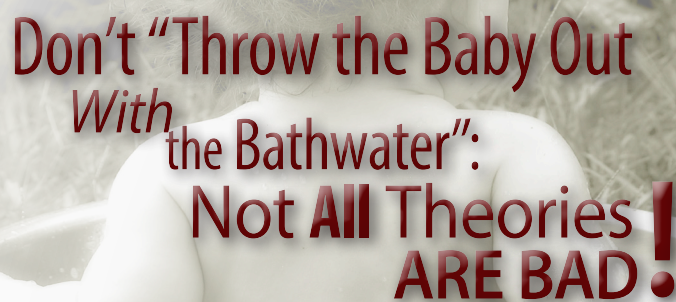
FORASMUCH as it is **the indispensable Duty of all Men to adore the superintending Providence of Almighty God....** It is therefore recommended to the legislative or executive Powers of these UNITED STATES to set apart THURSDAY, the eighteenth Day of December next, for **SOLEMN THANKSGIVING and PRAISE:** That at one Time and with one Voice, the good People may express the grateful Feelings of their Hearts, and consecrate themselves to the Service of their Divine Benefac-

tor; and that, together with their sincere Acknowledgments and Offerings, they may join the **penitent Confession of their manifold Sins**, whereby they had forfeited every Favor; and their humble and earnest Supplication that it may please GOD **through the Merits of JESUS CHRIST, mercifully to forgive and blot them out of Remembrance;** To take Schools and Seminaries of Education, **so necessary for cultivating the Principles of true Liberty, Virtue and Piety, under his nurturing Hand;** and to prosper **the Means of Religion, for the promotion and enlargement of that Kingdom, which consisteth "in Righteousness, Peace and Joy in the Holy Ghost"** [Romans 14:17—DM].... God save the United-States of America (*Journals of...*, 9:854-851, emp. added).

The Founders were intelligent, wise, insightful, savvy men. In the midst of the multitude of concerns and worries that confronted them in their defiance of Britain and their attempt to launch the grand American experiment, they perceived with crystal clear precision the central issue: citizen acknowledgement of the one true God and the one true religion. Only with this recognition could the Republic be established and maintained. In light of this critical realization, Americans desperately need to awaken to the nation's **real** problem—and react accordingly as the Founders outlined in the above proclamation. Make no mistake, **this** is America's only hope. If the true malady is cured, i.e., if America could experience a widespread spiritual awakening and return to God and His moral principles, the symptoms will be eliminated. But if the true malady is not remedied, we ought to fully expect more harmful symptoms to present themselves. [NOTE: For more information, see *Christ and the Continental Congress* at ApologeticsPress.org.]

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Don't "Throw the Baby Out With the Bathwater": Not All Theories! ARE BAD!

Jeff Miller, Ph.D.

PERHAPS you have fallen victim to the fallacy alluded to by the title of this article. Creationists spend quite a bit of time countering the claims being made by those who believe in the Theory of Evolution and the Big Bang Theory—and rightly so. However, in our haste to show the flaws in evolutionary theories that contradict the laws of science, the impression might be left that we believe scientific theories are somehow unimportant, or are to be rejected and even scoffed at simply because they are theories. Let's set the record straight.

According to the *McGraw-Hill Dictionary of Scientific and Technical Terms*, scientific theory is "an attempt to explain a certain class of phenomena" by deducing them from other known principles (p. 2129). Scientific theories are crucial and very beneficial to the work of a scientist. They are a starting place to try to explain and make sense of scientific evidence that has been gathered. Much of what we know to be true in science started out as theory that was later verified or proved and re-categorized.

In biblical apologetics, we often lay out "theories" as to what message might be conveyed in a certain difficult text. For example, in Matthew 20:29-34 and Mark 10:46-52 the Bible records an incident where Jesus is said to have been leaving Jericho, and seemingly the same incident is recorded in Luke 18:35-43, where it says that the event happened while Jesus was drawing near to Jericho. Mark and Luke say that one blind man was healed in this incident, while Matthew says that two blind men were healed. Eric Lyons discussed various "theories" which adequately explain what is likely happening in these passages—reasonable theories which illustrate that the Bible in no way contradicts itself (Lyons, 2004). While many of these

theories may not ever be known as "gospel" this side of eternity, those theories should not be considered "bad" or things to be scoffed at. Creation scientists also suggest "theories" in order to attempt to explain various scientific observations in light of biblical revelation, for example, about the Flood or the Creation account.

Theories can be good—as long as they are accepted for what they are. A theory looks at the evidence and attempts to explain what may be going on—but it does not necessarily yield **definites**. Theories are "maybes." That is why there can be multiple theories to try to explain the same observed phenomena, and yet those theories can be totally different from each other and can even contradict one another without, at the same time, contradicting the evidence. One scientist says, "Well, I believe **this** is what's going on." Another scientist says, "Well, maybe, but I think **this** explains that phenomena better," or "Yes, I agree, but I also think **this** is going on." They have both proposed theories, and may find out in time that they are both right, only one of them is right, or neither is right. But for the moment, their explanations are merely theories—possible explanations of what they are witnessing. A theory may ultimately be proven wrong in the long run, and if not, it will still likely be revised to some extent.

That said, a fundamental rule for developing a scientific theory is that the theory must be in keeping with the scientific evidence—not in contradiction to it. A law of science trumps a "theory" if the two contradict one another, because a law, by definition, is known with certainty to describe nature and is considered to be without exception—beyond doubt. For example, if John Smith proposes a "theory" that claims that a "per-

petual motion machine" could be made by combining certain mechanical components in a certain way, he would likely be scoffed at by the engineering community, since the Second Law of Thermodynamics prohibits the design of such a machine (cf. Miller, 2010). The laws of science trump theories that contradict them.

Theories are not, in and of themselves, bad. They are very good for science. The key is to develop theories that are in keeping with the evidence, and reject those theories that are found to be in contradiction to it. The Theory of Evolution and the Big Bang Theory contradict the laws of science in many ways (cf. Miller, 2011; Miller, 2012; Miller, 2007; Thompson, et al., 2003), and yet those theories are blindly clung to by many in the scientific community when those theories should be rejected. We should be sure not to "throw the baby out with the bathwater" with regard to the importance of scientific theory, but if the bathwater needs to be thrown out, do it, or you could hurt the baby—in this case, the baby being the progress of science.

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California Law Bans Professional Counselors from Helping Young Patients Deal with Same Sex Attraction Issues

Matt A. Vega, J.D.



[EDITOR'S NOTE: The following article was written by A.P. staff writer Matt Vega, who received his doctorate from Yale University Law School.]

A new California law bars licensed counselors and therapists from helping anyone under 18 to change their sexual orientation. The law states: "Under no circumstances shall a mental health provider engage in sexual orientation change efforts with a patient under 18 years of age, regardless of the willingness of a patient, patient's parent, guardian, conservator, or other person to authorize such efforts" (S.B. 1172, 2012).

The law, which takes effect January 1, 2013, targets so-called "reparative," "conversion," or "reorientation" therapy. Conversion therapy can involve a variety of techniques ranging from aversive treatment to psychoanalytic therapy to social skills training and participation in prayer and other support groups (Hicks, 1999). However, regardless of the particular methods employed, all of these treatments remain controversial because they are based on the *a priori* assumption that a homosexual patient can and should change his or her sexual orientation, or should at least try to change his or her sexual behavior (Lieu, 2012).

Proponents of the new California law insist that homosexuality is a natural variation of human sexuality and should not be regarded as a pathological condition (Lieu). Because they believe homosexuality is biologically determined, they argue that efforts to help a child avoid homosexual behavior are misguided and will only produce guilt, depression, and decreased self-esteem. As a result, Democratic State Senator Ted Lieu, the bill's sponsor, claims reparative therapy amounts to "psychological child abuse" and "quackery" (Lieu).

Despite the critics, however, there are success stories of individuals who claim that conversion therapy has helped them deal with sexual confusion and the problem of unwanted same-sex attraction (cf. Leland and Miller, 1998).

FAMILY AUTONOMY

THERE are at least two significant legal grounds for challenging the new law. First, this law violates the right of parents to direct the upbringing of their children. This crucial civil liberty includes the parental right to direct a child's education, health care, lifestyle, regimen, religious observance, and discipline. The U.S. Supreme Court has affirmed the "fundamental" nature of the right of parents to raise their children, but the contours of that right are not always clear. This can make it sometimes difficult to determine exactly when the state oversteps its bounds.

For example, the Supreme Court in *Wisconsin v. Yoder* (1972) showed great deference to Amish parents, based on their right to control the upbringing and direct the education of their children, and based on the free exercise of religion, to exempt 14 and 15 year olds from compulsory school attendance. On the other hand, the Court held in *Price v. Mass* (1944) that parental rights can be interfered with by the state if "necessary to protect the child." In that case, the Court allowed the state to apply child labor laws to prohibit a parent from directing a nine-year-old child to solicit for Jehovah Witnesses.

Today, few would deny the right of a parent to seek professional counseling for a child with impulse control disorders like kleptomania or compulsive gambling, or for a child abusing drugs or alcohol. We even respect the right of parents to get help

for their children who are caught up in pornography or other sexual addictions. The California law, however, prohibits parents from obtaining professional help for a son or daughter dealing with same-sex attraction issues.

To date, two lawsuits have been filed in federal court seeking to have a federal judge strike down S.B. 1172 as unconstitutional (Wetzstein, 2012). Whenever a statute infringes upon fundamental parental rights, the Supreme Court held in *Troxel v. Granville* (2000) that the law should be subject to the strictest scrutiny. In the instant case, this means that the California state government will have to show a compelling state interest in preventing parents from seeking any form of conversion therapy for their child. Even if the state could show that some parents might abuse their power and force their children to undergo more aggressive, questionable therapy techniques that might harm the mental health of the child, the Supreme Court in a similar case involving the power of a parent to institutionalize a child, *Parham v. J.R. Parham*, rejected the "notion that governmental power should supersede parental authority in **all** cases because **some** parents abuse and neglect [their] children."

Under the strict scrutiny test, California will also have to meet two additional requirements in order to survive a constitutional challenge. Even if the state government could show a compelling state interest in preventing all forms of conversion therapy (which it cannot), this particular law must be narrowly tailored and the least restrictive means of discharging the government's so-called compelling interest. S.B. 1172 fails on both counts because, at a minimum, it fails to exempt ministerial or spiritual efforts to change unwanted sexual behavior. There is no evidence that teaching a child how not to act on same-sex attractions poses any more harm to his or her physical or mental health than does teaching a child how to wait until marriage before having heterosexual relations.

This is not the first law to threaten parental rights. In recent years, several states have passed privacy laws that deny parents access to important information about their children. For example, North Dakota allows 14-year-olds to be treated for sexually transmitted diseases without parental consent, and allows the health care provider discretion about whether to disclose medical records concerning the treatment to the

parents (N. Dakota Stat. 15.1-24-04). Similarly, in Minnesota a child can request that information be withheld from his or her parents or guardian if it is deemed in the child's "best interest" (Minn. Stat. 13.02 *et seq.*). In Connecticut, Wisconsin, and other states, communication relating to alcohol or drugs between a student and certain school personnel, such as a school nurse or school counselor, need not be disclosed to the parents (Conn. Stat. 10-154a; Wis. Stat. 118.125, 126).

FREEDOM OF RELIGION

THIS law also likely violates the First Amendment free exercise and free speech clauses. By prohibiting licensed professional counselors from treating same-sex attraction as anything but normal and desirable, the law unconstitutionally infringes on Christian counselors' freedom of religion. The California law does not contain any exception for ministerial or spiritual counseling. For example, if a young Christian is experiencing conflict between his or her sincerely held religious beliefs and same-sex attractions, this law would prevent a minister, who is also a trained and licensed counselor or therapist, from helping that child to overcome "sexual immorality" or "unnatural desire" (Jude 1:7, ESV) and to keep his or her body under control (1 Thessalonians 4:4; 1 Corinthians 10:27).

In such cases, the California law would intrude on the freedom of religion of both the counselor and the counselee, by forcing the counselor to violate his or her own ethics and refuse service to underage counselees seeking help for their sexual issues. In addition, S.B. 1172 infringes on free speech rights by forcing counselors and therapists to parrot only one viewpoint on homosexuality.

Unfortunately, modern First Amendment jurisprudence has made it much easier for the government to enact facially neutral laws and regulations that burden religion, and to a lesser extent, free speech. The Supreme Court in *Employment Division v. Smith* (1990) held that, so long as a law is "generally applicable" and does not target a particular religion, it does not violate the free exercise clause. Although Congress passed the Religious Freedom Restoration Act (RFRA) in 1993 to restore the "compelling interest" standard in religious freedom cases, the Court later struck down portions of that federal law that would have forced state and local governments

to abide by it. In the instant case, since the California law is a state law and purports to regulate all mental health providers—an already heavily licensed profession—to protect the physical and mental health of children, a court could feasibly uphold the statute under a lower level of constitutional scrutiny.

However, the California law infringes upon both the free exercise of religion and fundamental parental rights. Therefore, it should be treated as a so-called "hybrid" case. Hybrid cases are generally subject to strict scrutiny. Regardless, even under this more rigorous standard, any constitutional challenge of the California law will be a long, protracted, uphill battle.

ANY PRACTICAL SOLUTIONS?

ARE there any practical solutions in the interim? One practical solution may be for Christian counselors to make the difficult decision to forego state licensing and only offer "Christian or pastoral counseling" services. Throughout the country, many counseling accrediting bodies already dictate that a "licensed professional counselor" refrain from imposing his or her moral or religious values on a client. State regulations often require that a "licensed professional counselor" adhere to strict so-called "ethical" standards that forbid the professional counselor from praying, from referring to the Bible, and from counseling against things such as homosexuality or abortion. However, the California law goes a step further by preventing a client under the age of 18, or his or her parents, from consenting to a Christian-based approach to counseling regarding sexual orientation. In contrast, most state ethics rules still permit a state licensed counselor to involve Christian principles, practices, or instruction if the counselee initiates or requests counsel in this area.

Of course, if all Christians capitulate and remove themselves from the pool of licensed professional counselors, then it will be increasingly difficult for Christian students to secure the necessary education and training in the field. Many public universities already routinely discriminate against students in counseling, social work, or psychology programs if the student refuses to endorse homosexuality as normal and healthy. This problem is likely to only get worse as fewer and fewer Christians lead or participate in the profession.

At least one state—Michigan—has recently passed legislation to try to accom-

modate the religious beliefs of future counselors. On June 12, 2012, the Michigan House passed H.R. 5040, the "Julea Ward Freedom of Conscience Act," which prohibits a public university from disciplining or discriminating against a student that "refuses to counsel or serve a client as to goals, outcomes, or behaviors that conflict with a sincerely held religious belief of the student, if the student refers the client to a counselor who will provide the counseling services" (H.R. 5040, 2012). This bill would go a long way towards creating a safe harbor in higher education for future Christian counselors. While the bill faces a great deal of political opposition and may never be signed into law, it does illustrate how the law can be used to advance rather than attack religious freedom in this country.

Regardless of the outcome of either S.B. 1172 or H.R. 5040, Christian counselors and parents must continue to try to find lawful ways to help young people struggling with same sex attraction issues. All of us have a moral and civic obligation to encourage our legislators and judges to support, rather than to try to undermine, those good faith efforts. In the final analysis, if and when a municipal or state government, or even the federal government, reaches the point where it requires Christians to act inconsistent with the commandments of God, "we must obey God rather than men" (Acts 5:29).

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NOTE FROM

The Editor

*America's Most Pressing Concern*

The cultural conditions of our country are such that people are hungering to return to our roots—those values that have made America the envy of the world. Apologetics Press has been responding to this widespread interest with a variety of resources, including the production of *The Silencing of God: The Dismantling of America's Christian Heritage* book and DVD. These items have been well received across the nation.

Three years ago, we released a sequel book—*Christ & the Continental Congress*—which answers the question: Did the Founders believe that the survival of the Republic **depends** on America's acknowledgement of Jesus Christ? Revisionist historians, who now firmly dominate academia, answer that question with a resounding—“absolutely not”! But the truth is that **the Founders stated over and over their deep conviction that, indeed, acknowledgement of God and the Christian religion are integral to the survival of the nation.** This volume, like its predecessor, is a coffee table-style volume filled with stunning pictures and a wealth of information documenting America's close connections to Christianity from the very beginning of the Republic. We also published a *Proclamation Packet* that contains the valuable documents described in the book.

Now we are pleased to announce the completion of a DVD that is based on *Christ and the Continental Congress*. This seminar treats the audience to the fascinating, spiritually enriching, actual historical proclamations

issued to the entire nation during the tumultuous years of the Revolutionary War. The documents prove conclusively that the Continental Congress openly acknowledged Jesus Christ as “our gracious Redeemer,” and advocated the exclusivity and priority of Christianity; they affirmed the critical importance of the Bible to the people, and beseeched God to spread Christianity throughout the Earth; they even requested that God establish American Independence on Christianity and Christian morality, while urging Americans to keep all of God's laws. They enjoined on Americans the practice of Christianity as the foundation of national happiness, and credited God with America's military success and national prosperity. **You must see for yourself the evidence that establishes these facts.** Also included in this live presentation are sessions on whether the Founders were deists and slave owners.

The DVD contains eight 30 minute sessions that are suitable for church and school classrooms, civic and school board meetings, and other venues. Special prices are available when purchased in quantities of 20 or more, and a discount applies when coupled with the book and *Proclamation Packet*.

Dave Miller

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